

EXHIBIT 85

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DONNA CURLING, ET AL.,)
)
Plaintiffs,)
)
vs.) CIVIL ACTION NO.
)
BRAD RAFFENSPERGER, ET) 1:17-CV-2989-AT
AL,)
)
Defendants.)

VIDEOTAPED 30(b)(6) DEPOSITION OF OFFICE OF THE
SECRETARY OF STATE
(through William "Chris" Harvey)
(Taken by the Curling Plaintiffs)
January 28, 2022
8:40 a.m.

Reported by: Debra M. Druzisky, CCR-B-1848

1 Q. Okay. So let me jump to the topics. And
2 you were designated on two topics, topics 12 and
3 18. Do you see topic 12 up here?

4 A. I do.

5 Q. And it's:

6 "Communications with the U.S.
7 Election Assistance Commission
8 regarding any software changes
9 involving Georgia's current election
10 system or otherwise relating to any
11 actual or contemplated request for
12 E.A.C. approval for any aspect of
13 Georgia's current election system."

14 And am I right that you're designated to
15 testify on behalf of the Secretary's office on that
16 topic today?

17 A. That's correct.

18 Q. What did you do to prepare yourself to
19 testify on that topic?

20 A. I spoke with counsel and just went through
21 my memory and recollection about communications
22 with the E.A.C.

23 Q. Did you speak with anyone other than
24 counsel for this topic?

25 A. No.

1 any differences.

2 Q. If you wanted to learn the details of what
3 was done in that examination, who would you ask?

4 A. I'd probably ask Jordan Fuchs.

5 Q. And do you know, for that examination, did
6 Pro V&V look at the hash values on the equipment?

7 MR. RUSSO: Object. He's testified
8 he wasn't involved and didn't know
9 anything about it.

10 MR. CROSS: If he doesn't know, he
11 can say he doesn't know.

12 BY MR. CROSS:

13 Q. If you don't know --

14 A. I don't know. I don't know exactly what
15 they did.

16 Q. Okay. All right. That's fine. I just
17 wanted to see if there was any details you had.

18 Okay. To the software change in the fall
19 of 2020 we mentioned before, did the E.A.C. express
20 any concerns about that?

21 A. Not that I'm aware of.

22 Q. Okay. All right. If you can scroll down
23 to topic 18. It's on -- oh, there are no page
24 numbers on this. Sorry. It's the last topic in
25 Exhibit 1, and just let me know if you need help.

1 A. Okay.

2 Q. Do you have that in front of you,
3 Mr. Harvey?

4 A. I do.

5 Q. Okay. And do you see the topic here is,
6 the Secretary's office -- "your" refers to the
7 Secretary's office:

8 [As read] "The Secretary's
9 office's process for preserving
10 information within your possession,
11 custody or control potentially
12 relevant for this matter, including
13 any communications with counties or
14 other entities or individuals
15 regarding the same."

16 Do you see that?

17 A. Yes, sir, I do.

18 Q. And do you understand you were designated
19 to testify on that topic as well?

20 A. Yes.

21 Q. Okay. What did you do to prepare for that
22 topic?

23 A. I spoke with counsel. I reviewed a couple
24 of E-mails on this topic and sort of searched my
25 memory for any relevant information.

1 statements or evidence about exactly what had gone
2 on if it was a significant issue.

3 Q. So you respond to Ms. Watson in this
4 E-mail:

5 "10-4, I assume you're
6 investigating."

7 Do you see that?

8 A. Yes.

9 Q. And was there an investigation done of the
10 concern that was raised by Laura Jones here on
11 November 5th of 2020?

12 A. I don't know. I assume there -- I assume
13 there was. This is certainly the kind of thing
14 that would have risen to the level of an
15 investigation.

16 Q. Who would you ask if you wanted to know
17 whether there was an investigation done and what
18 the outcome was?

19 A. Well, now I'd ask the current -- I think
20 it's the interim investigator. His name is James
21 Callaway. Frances Watson has moved on. She's no
22 longer there. So I would ask Interim Chief
23 Investigator Callaway to -- he would be able to
24 give the status of any investigations.

25 Q. When --

1 A. It would be in the investigations
2 division.

3 Q. Do you know whether any steps were made to
4 preserve and collect documents from the
5 investigations division for this case?

6 A. I know that the investigative files are
7 kept for I think either five or seven years as just
8 a normal -- in the normal course of business. I
9 don't know specifically if attempts were made to
10 get them or not or -- as part of discovery.

11 Q. If you look at the concern raised here by
12 Laura Jones on November 5th, 2020, there are a
13 number of things that she points out here, but one
14 of the things she points out is that they used
15 election equipment where the election database
16 doors that had been opened and seals had been
17 broken.

18 Do you see that?

19 A. I know that she said the doors were open.
20 Let's see. Well, she says that:

21 "...we did use all the other
22 machines that had the election
23 database door open."

24 I don't think she says the seals were
25 broken. But I guess if the doors are open, then --

1 Q. Yeah. If you look at the third line, do
2 you see where she writes -- well, we can start at
3 the beginning so you've got the whole context. She
4 says:

5 "When we opened the large cabinets
6 containing the voting machines, we
7 discovered that most of the voting
8 machines' 'election database' doors
9 were wide open and not secured with a
10 zip tie" --

11 A. Right.

12 Q. -- "with serial" -- she goes --

13 A. I see that.

14 Q. Yeah. She goes on:

15 "Seals were already broken or a
16 zip tie was put on but was not put
17 through the door."

18 Do you see that?

19 A. I do.

20 Q. You also indicate --

21 THE VIDEOGRAPHER: Sorry. I'm sorry,
22 Mr. Cross. There's something -- this is
23 the videographer. There's something a
24 little weird going on with the audio.

25 So if you could --

1 MR. CROSS: With Mr. Harvey?

2 THE VIDEOGRAPHER: I don't know if
3 it's coming from Mr. Harvey or from your
4 end, but --

5 MR. CROSS: Oh.

6 THE VIDEOGRAPHER: -- if you guys
7 could just give each other maybe a half a
8 beat between questions and answers, maybe
9 that'll help. I'm not sure. But there's
10 some kind of interference.

11 MR. CROSS: Okay.

12 BY MR. CROSS:

13 Q. Okay. Mr. Harvey, do you see that she
14 indicates I believe one of the machines -- well, to
15 be precise, she says:

16 [As read] "One of our machines
17 did show one ballot had been cast on
18 it even though the machines were
19 supposed to show a zero balance at
20 that point."

21 Do you see that?

22 A. Right. And then she goes on to say:

23 "We did not use this machine..."

24 Q. Right. That one she did not use.

25 Is it fair to say that, using voting

1 machines in an election where the election database
2 doors were open and seals were broken before the
3 election began, that that would not comply with
4 state policies?

5 A. I think the regulation is that, if there
6 is some type of discrepancy, either with a seal or
7 some concern, it has to be essentially -- I'm not
8 sure what the word would be. It has to be resolved
9 or it has to be sort of examined and determined if
10 that's an issue or if that's a significant problem.
11 If you can't determine that it's good, you should
12 put it aside.

13 But I think there is -- I think there is a
14 provision in either the law or the S.E.B. rules
15 that does put the onus on the election folks to
16 resolve or, you know, or satisfy themselves that
17 that is good to use before you use it.

18 Q. Do you know whether any analysis was done
19 of the machines described here after this complaint
20 came in to determine whether they had been
21 compromised or were otherwise unreliable for an
22 election?

23 A. I don't know.

24 Q. Who would you ask?

25 A. I would ask either the Secretary of State

1 investigator who did this or I would ask Fulton
2 County.

3 Q. All right. Grab the next exhibit, if you
4 would, please, which is Exhibit 6.

5 (Whereupon, Plaintiff's
6 Exhibit 6 was marked for
7 identification.)

8 THE WITNESS: Yeah, let me refresh
9 here.

10 BY MR. CROSS:

11 Q. Okay.

12 A. Okay. I've got it.

13 Q. Okay. Do you see that Exhibit 6 is an
14 E-mail that you received from David Worley on
15 October 10th, 2020?

16 A. Yes.

17 Q. Who is David Worley?

18 A. David Worley at the time was the
19 democratic representative to the -- appointee to
20 the State Election Board.

21 Q. What organization was he with at this
22 time?

23 A. Well, he was the Democratic Party
24 representative, and he was a private attorney. I
25 don't know if that answers your question.

1 on November 9, 2020, the description of the
2 violation is "many voting machines unlocked during
3 the day."

4 Do you see that?

5 A. Yes.

6 Q. And the location is the Hartwell polling
7 place library. Do you see that?

8 A. Yes.

9 Q. And there's a Twitter link here. And if
10 you read the whole context of the E-mail, you'll
11 see that whoever sent this in put up photos of
12 voting machines that were apparently, according to
13 this person, unlocked during the day.

14 Do you see that?

15 A. I see that.

16 Q. Do you know whether there was an
17 investigation done in this situation?

18 A. I don't know. But again, this is one that
19 I would certainly expect an investigation to have
20 been done.

21 Q. If you wanted to review any -- review the
22 investigation file, any report, and understand what
23 was done and what the findings were, who would you
24 ask?

25 A. The current acting chief, Mr. Callaway.

1 my -- I -- look at my voting history, I think you'd
2 find I do it about 50/50.

3 Q. Okay. When you voted on the B.M.D., is it
4 fair to say that you weren't able to read the Q.R.
5 code on your ballot to determine how that Q.R. code
6 was getting tabulated? Is that right?

7 A. That's correct. I -- but I did see the
8 print-out below it of what my choices were.

9 Q. Okay. But you understand that the human
10 readable portion of your ballot does not count in
11 any election in terms of what gets tabulated;
12 right?

13 MR. RUSSO: Object. Objection to
14 form.

15 THE WITNESS: I would, while I would
16 generally agree, I believe, and I'd have
17 to go back and look at the code, I think
18 for -- if there's a recount or something
19 like that, then I think it does count.

20 So.

21 But generally, I agree with your
22 premise.

23 BY MR. CROSS:

24 Q. A recount in Georgia simply rescans the
25 ballots; right?

1 MR. RUSSO: Objection. Form.

2 THE WITNESS: It does. But I'm,
3 again, I'm -- I can't cite exactly where
4 it is in the code, but I believe there is
5 a provision somewhere that says, if
6 there's some inconsistency, you go with
7 what's actually printed, the name that's
8 printed on the ballot.

9 BY MR. CROSS:

10 Q. And in order to examine the human readable
11 portion for tabulation purposes, that can occur
12 only in an audit that's authorized by the Secretary
13 of State; is that right?

14 MR. RUSSO: Objection to form.

15 THE WITNESS: Again, I -- I'm not
16 sure about that. Again, I think there may
17 be some provision that, if there's some
18 type of dispute about a vote, you go with
19 the human readable form.

20 BY MR. CROSS:

21 Q. Okay. As a voter, would you prefer to
22 cast a vote that's scanning human readable text for
23 the tabulation rather than a Q.R. code?

24 A. Probably.

25 Q. Because then you could actually, you could

1 read what's being tabulated in the first instance
2 yourself; right?

3 A. Well, yes. Assuming that the scanner is
4 set up and is secure and is tabulating it in
5 accordance with that.

6 Q. Right. Are you aware that -- well, let me
7 ask a threshold question. Are you familiar with an
8 election security expert named Alex Halderman?

9 A. Yes.

10 Q. In fact, you've, I think you've testified
11 at hearings in this case with -- where you both
12 testified; right?

13 A. Yes. Although I've not seen -- I wasn't
14 in the room when he testified, but I'm certainly
15 familiar -- certainly familiar with his reputation
16 and his work.

17 Q. Okay. And what are you familiar with
18 regarding his reputation and work?

19 A. That he's considered an expert in security
20 sys -- or election systems and security and that
21 he's been -- I guess Judge Totenberg, I don't know
22 what the designation is, but essentially designated
23 him or allowed him unprecedented access to check
24 the Georgia voting system.

25 So I mean, obviously he's got credentials

1 to do this stuff.

2 Q. Okay. And you anticipated where I was
3 going. You mentioned that he got access to
4 election equipment in Georgia. Are you aware that
5 he prepared a report of nearly a hundred pages on
6 that analysis that was provided to the State's
7 lawyers on July 1st of last year?

8 A. I just read that in the A.J.C. I think
9 yesterday or the day before.

10 Q. So you did not know that before the A.J.C.
11 article?

12 A. No. And I, remember, I had -- I
13 essentially left the Secretary's office at the end
14 of May.

15 Q. Okay. So fair to say you have not read
16 that report?

17 A. That's correct. I have not.

18 Q. Okay. Would you expect the Secretary's
19 office to address any significant vulnerabilities
20 with the election system that Dr. Halderman
21 identified in that report?

22 A. I would expect the Secretary of State's
23 office to address any vulnerabilities from any
24 source in an evaluation of, you know, considering
25 all the different factors that come in.

1 Q. Why?

2 A. Well, because if there's a security issue,
3 it needs to be -- if you can confirm that it is an
4 issue, you'd want to -- you'd want to fix it. You
5 may get reports that are -- that are not security
6 issues or false reports that you want to be able
7 to, you know, counter with a fact that, hey, this
8 is a -- this is a false report or this is a -- this
9 flaw doesn't exist or whatever the case may be, I
10 think.

11 But I would expect them to certainly
12 consider anything that would come in that would be
13 able to secure the system.

14 Q. And is it fair to say that taking
15 reasonable measures to mitigate known
16 vulnerabilities with an election system and being
17 able to tell voters that you've done that, that
18 that helps drive voter confidence in the election
19 system?

20 MR. RUSSO: Objection. Form.

21 THE WITNESS: Can you ask the first
22 part of that again?

23 BY MR. CROSS:

24 Q. Sure. Taking measures to mitigate known
25 vulnerabilities with an election system and being

1 able to tell voters that those measures have been
2 taken, without getting into specifics, just letting
3 voters know that measures have been taken to
4 address known vulnerabilities with an election
5 system, would you expect that to help drive voter
6 confidence in that system?

7 MR. RUSSO: Objection to form again.

8 THE WITNESS: I would think it would
9 be helpful.

10 BY MR. CROSS:

11 Q. As a voter yourself, would you have more
12 confidence in a system where known vulnerabilities
13 have been addressed or in a system where known
14 vulnerabilities have not been addressed for six
15 months or more?

16 MR. RUSSO: Objection to form. Lacks
17 relevance.

18 THE WITNESS: I'd want issues
19 addressed.

20 BY MR. CROSS:

21 Q. Okay. You were still with the Secretary's
22 office in September 2020 when Dr. Halderman
23 testified in a hearing before Judge Totenberg in
24 this case; right?

25 A. Yes, I was.

1 Q. And I won't get into the specifics of his
2 testimony, but just at a general level, were you
3 aware that he testified and actually did a
4 demonstration by video for the judge showing that
5 he was able to hack Georgia's B.M.D. equipment?

6 MR. RUSSO: Objection to form.

7 THE WITNESS: No, I'm not aware of
8 that.

9 BY MR. CROSS:

10 Q. So even when you were the elections
11 director, no one informed you that Dr. Halderman in
12 the span of only three days with Fulton County's
13 B.M.D. equipment was able to hack it where it would
14 produce Q.R. codes that did not match the
15 selections on the B.M.D.?

16 MR. RUSSO: Objection to form. And
17 lacks foundation.

18 THE WITNESS: I don't believe I -- I
19 don't believe I was aware of that.

20 BY MR. CROSS:

21 Q. Isn't that something you would expect to
22 know as the elections director so that you could at
23 least be aware of that vulnerability in the system?

24 A. Yeah, I would want to know that.

25 Q. And so is it fair to say you're also not

1 aware of any measures taken by the Secretary's
2 office or any county to address that vulnerability?

3 MR. RUSSO: Same objection.

4 THE WITNESS: I'm not aware of
5 anything that was -- that came as a result
6 of what you're saying he did.

7 BY MR. CROSS:

8 Q. Okay. All right. Take a look at Exhibit
9 8, if you would, please.

10 (Whereupon, Plaintiff's
11 Exhibit 8 was marked for
12 identification.)

13 MR. RUSSO: And David, before we go
14 into this, I need to take a break in about
15 seven minutes so we can swap. I have
16 another matter to deal with that I
17 mentioned earlier.

18 MR. CROSS: Do you want --

19 MR. RUSSO: I don't know how long --
20 yeah, I don't know how long you're going
21 to need on this exhibit. I'm not -- my
22 computer actually hasn't even brought it
23 up yet, but.

24 MR. CROSS: I don't need to take
25 long. I think we can get through this and

1 reporting page. But it -- but it never leaves the
2 E.M.S. It stays on the E.M.S. And what's on the
3 E.M.S. is the official -- the official vote.

4 Q. Where do the counties get the U.S.B.
5 drives that they use to copy the election results
6 from the E.M.S. into the E.N.R. system?

7 A. I think initially we sent them some U.S.B.
8 drives to do that. I think we had -- we had talked
9 about having a procedure where we would send them a
10 new U.S.B. drive before every election and,
11 basically, have it be disposable.

12 I don't know if they -- if they adopted
13 that. We hadn't had any other elections before I
14 left.

15 Q. Okay. So before you left, the counties
16 were typically reusing the U.S.B. drives instead of
17 getting new ones from the State for each election?

18 A. They all got new ones for -- with the new
19 system, but I couldn't -- I couldn't tell you if
20 some counties may have reused them or used old
21 systems or got -- old drives or got new drives.

22 Q. Who would you ask if you wanted to know
23 the answer to that question? Is that a county
24 level question?

25 A. I think you'd have to ask each county.

1 work with E.M.S.

2 Now, you know, they often would have the
3 techs at their side doing it, again, in some sense
4 maybe walking them through the process or
5 confirming that they were doing the right thing.
6 But it was -- it was our expectation of the
7 counties that the counties were doing that.

8 Now, you know, depending on how good
9 somebody was with the E.M.S. system, they may have
10 had more or less help with it from a tech.

11 Q. Who at the state level has administrator
12 access to voting equipment in Georgia?

13 A. Well, what -- I mean, that's a very big
14 question. The -- as far as the local E.M.S. and
15 things like that, those would be county
16 restrictions. So nobody at the state would have
17 access to, you know, Cobb County's E.M.S. password.

18 We would have -- I think state employees
19 might have access to the E.N.R. system to help a
20 county, like, if they got logged out or something
21 like that.

22 But generally speaking, the passwords and
23 the access to local election equipment are -- the
24 state election equipment that's operated by the
25 counties is a county issue that we wouldn't have.

1 I certainly didn't have a notebook that
2 had, you know, county passwords or anything like
3 that. And nor do I believe anyone in the state
4 did.

5 Q. Who has administrator access to components
6 of the election system at the state level?

7 A. Well, I guess it depends on what
8 components you're talking about. For ENet it would
9 generally be I would have access. The assistant
10 administrator would have had access.

11 Merritt Beaver and/or people he designated
12 in his team would have had access. I believe Kevin
13 Rayburn when he was the deputy would have had
14 access. But a pretty small number of people for
15 the -- for the ENet system, and pretty much
16 everything else was local.

17 I mean, there were -- there are no other
18 really connected networks that talk to each other.
19 I mean, the Lowndes County E.M.S. didn't talk with
20 the -- anything at the state. It had to be -- the
21 data had to be pulled from it and sent to E.N.R.
22 for us to get it.

23 So there wasn't -- there really weren't
24 statewide networks except for ENet.

25 Q. Okay. So you had passwords, you had

1 experience as the elections director for Georgia,
2 are you aware of any effort by anyone to alter or
3 manipulate the outcome of the 2020 election in
4 Georgia?

5 A. No.

6 Q. Is that something that you would expect to
7 have been brought to your attention if someone at
8 the Secretary's office had learned that something
9 like that had happened?

10 MR. MILLER: Objection. Calls for
11 speculation.

12 THE WITNESS: I would have -- I would
13 expect something like that to be brought
14 to my attention.

15 BY MR. CROSS:

16 Q. As a voter in Georgia, is it important to
17 you that your vote is counted as you intended it to
18 be counted?

19 A. Yes.

20 Q. Why?

21 A. Because that's one of my fundamental
22 rights.

23 Q. What if the election outcome comes out the
24 way you want it but your vote had not been counted,
25 would that matter to you?

1 A. It would.

2 Q. Why?

3 A. Well, assuming that I cast my vote legally
4 and properly, each -- my vote should be a record.

5 Q. Okay. Are you aware of a situation where
6 election workers, when they were transmitting
7 ballots coming out of the B.M.D. system, they
8 stopped at one of the election workers' homes, one
9 of them took a shower, the ballots sat in their
10 cars in the driveway for some period of time, and
11 then they finally made it on to the county election
12 facility where those ballots were supposed to be
13 stored and the results were supposed to be
14 transmitted to the State?

15 MR. MILLER: Object to form.

16 THE WITNESS: I believe I recall
17 that. I -- although I don't remember
18 where it was. But that sounds -- that
19 sounds familiar.

20 BY MR. CROSS:

21 Q. Fair to say that's not consistent with
22 State protocol or County protocol; right?

23 A. I agree.

24 Q. Okay. Do you know of any efforts that
25 were taken to confirm that that incident did not

1 affect the tabulation of the ballots in that county
2 for that election?

3 MR. MILLER: Objection. Lacks
4 foundation.

5 THE WITNESS: I -- I'm not aware of
6 follow-up steps to that.

7 BY MR. CROSS:

8 Q. Who would you ask if you wanted to know?

9 A. Probably the county election director.

10 Q. Okay.

11 MR. CROSS: All right. Let's go off
12 the record. I'm pretty close to done.
13 Let me just look at my notes real quick,
14 if that's all right, Mr. Harvey.

15 THE WITNESS: Sure.

16 THE VIDEOGRAPHER: The time is 2:10
17 p.m. We're off the record.

18 (Whereupon, a discussion ensued
19 off the record.)

20 (Whereupon, there was a brief
21 recess.)

22 THE VIDEOGRAPHER: The time is 2:15
23 p.m. We're on the record.

24 BY MR. CROSS:

25 Q. Mr. Harvey, is voter confidence in an

1 R E P O R T E R C E R T I F I C A T E
2 STATE OF GEORGIA)
3 COBB COUNTY)

4 I, Debra M. Druzisky, a Certified Court
5 Reporter in and for the State of Georgia, do hereby
6 certify:

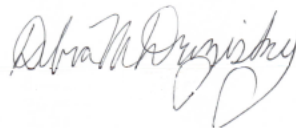
7 That prior to being examined, the witness
8 named in the foregoing deposition was by me duly
9 sworn to testify to the truth, the whole truth, and
10 nothing but the truth;

11 That said deposition was taken before me
12 at the time and place set forth and was taken down
13 by me in shorthand and thereafter reduced to
14 computerized transcription under my direction and
15 supervision. And I hereby certify the foregoing
16 deposition is a full, true and correct transcript
17 of my shorthand notes so taken.

18 Review of the transcript was requested.
19 If requested, any changes made by the deponent and
20 provided to the reporter during the period allowed
21 are appended hereto.

22 I further certify that I am not of kin or
23 counsel to the parties in the case, and I am not in
24 the regular employ of counsel for any of the said
25 parties, nor am I in any way financially interested
 in the result of said case.

 IN WITNESS WHEREOF, I have hereunto
subscribed my name this 11th day of February, 2022.



Debra M. Druzisky
Georgia CCR-B-1848